

§0.735-54

violations of 18 U.S.C. 207. The respondent shall be informed of the allegations and the basis for them in sufficient detail to prepare an adequate defense;

(b) He or she may request a hearing in writing within 15 working days by addressing the request to the Director of Personnel of the Department;

(c) In the absence of such a request, the Director of Personnel shall decide the matter on its merits based upon the evidence gathered to date; and

(d) The respondent may elect to supply a written rebuttal to the allegations in lieu of requesting a hearing. Such material shall be incorporated in the record and reviewed by the Director of Personnel prior to reaching a determination on the matter.

§0.735-54 Hearing officer.

If the respondent, after receiving notice of action under this subpart, requests a hearing, the Secretary shall appoint a hearing officer for the matter. The hearing officer shall be an individual who has not been involved in any of the events specified in the allegations and who did not participate in the investigation of the allegations, or the decision to institute the proceeding, or the referral of the matter, if any, to the Department of Justice. The hearing officer shall be an individual with suitable experience and training to conduct the hearing, reach a determination and render an initial decision in an equitable manner.

§0.735-55 Department representative.

The Director of Personnel shall appoint a Department representative (hereinafter petitioner) to present evidence and otherwise participate in the hearing.

§0.735-56 Time, date and place of hearing.

The hearing shall be held at a time and place specified by the hearing officer. The hearing officer shall give due regard in setting a hearing date to:

(a) Allowing the respondent adequate time to prepare a defense properly; and

(b) Providing the respondent an expeditious resolution of allegations that may be damaging to his or her reputation.

7 CFR Subtitle A (1-1-97 Edition)

§0.735-57 Representation.

Respondent shall be entitled to appear personally, or to appear through or be accompanied by a representative, at the hearing.

§0.735-58 Rights of parties at hearing.

Petitioner and respondent shall be entitled to introduce, examine and cross examine witnesses, submit evidence, and present oral arguments.

§0.735-59 Oaths and rules of evidence.

All testimony shall be taken under oath. The hearing officer shall conduct the hearing so as to bring out pertinent facts, including the production of pertinent documents. Rules of evidence shall not be applied strictly, but the hearing officer shall exclude irrelevant or unduly repetitious evidence.

§0.735-60 Transcript.

The hearing officer shall cause a transcript to be made of the hearing and a copy of it shall be made available to petitioner and to respondent.

§0.735-61 Briefs and discovery.

There shall be no discovery prior to the hearing, nor shall any briefs be submitted, absent specific request of the hearing officer.

§0.735-62 Open hearing.

All hearings shall be open to the public unless closed for good cause by the hearing officer. Such a finding shall be made a part of the record by the hearing officer.

§0.735-63 Ex-parte communications.

Neither petitioner or respondent, nor any representative thereof, shall make any ex-parte communications to the hearing officer concerning merits of the allegations against respondent prior to the issuance of his or her initial decision.

§0.735-64 Administrative record.

The record of any proceeding shall consist of the statement of allegations conveyed to respondent, the transcript of the testimony at the hearing, the documents and other evidence produced and made a part of the record at